



**STATE OF TENNESSEE**  
**DEPARTMENT OF COMMERCE AND INSURANCE**  
**AUCTIONEER COMMISSION**  
Davy Crockett Tower, Suite 635  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TN 37243-1152  
(615) 741-3236

The Tennessee Auctioneer Commission met November 5, 2007, at 9:00 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 640. Chairman Kenneth Dreaden called the meeting to order, and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

KENNETH DREADEN  
HOWARD PHILLIPS  
BOBBY COLSON  
MARVIN ALEXANDER  
MARY FRANCES RUDY

**STAFF MEMBERS PRESENT**

Lynn McGill, Administrative Director  
Sheila Piper, Administrative Assistant  
Adrian Chick, Staff Attorney

**ADOPT AGENDA**

Motion was made by Bobby Colson and seconded by Howard Phillips to adopt agenda. Motion carried. No opposition.

**MINUTES**

Minutes from the meeting of August 2007 were presented to the Commission Members for approval. Motion was made by Bobby Colson and seconded by Howard Phillips to approve said minutes. Motion carried. No opposition.

**Formal Hearing**

The Auctioneer Commission Members heard the case of John and Craig Butler, Docket No. 12.15-096739A, on November 5, 2007, as a contested hearing pursuant to the Uniform Administrative Procedures Act, contained in Tenn. Code Ann. Title 4, Chapter 5. The State of Tennessee was represented by Adrian Chick, Attorney at Law. The Respondents, John Butler and Craig Butler, were represented by Gilbert Anglin, Attorney at Law, of Murfreesboro, Tennessee.

The State introduced numerous exhibits and called John Butler and Ray Coleman as witnesses. Based upon testimony of these witnesses, exhibits introduced as evidence and the record as a whole, the Commission found that the respondents engaged in unlicensed conduct on numerous occasions. The Commission assessed a civil penalty of \$7500 against John Butler and the cost of hearing, and ordered that he not be permitted to take the apprentice

auctioneer examination for 2 years. The Commission assessed a civil penalty of \$2500 against Craig Butler.

Sheila Piper re-presented a letter from NAA (National Auctioneer Association) to the Commission Members. NAA requested approval for CE to be viewed on line from the Conferences for 2006 and 2007.

Motion was made by Howard Phillips and seconded by Bobby Colson to deny the request at this time. Motion carried. No opposition.

Charles Long, owner of Brunswick School of Auctioneering, appeared before the Commission Members for approval of school application. After a lengthy discussion, motion was made by Marvin Alexander and seconded by Bobby Colson to deny application at this time. Motion carried. No opposition. A copy of our law book was given to Mr. Long by Staff Attorney.

Sheila Piper presented the firm application of Hilco Industrial, LLC and the auctioneer application of Robert C. Levy to the Commission Members. Motion was made by Marvin Alexander and seconded by Bobby Colson to deny at this time for submission further information. Motion carried. No opposition.

Staff Attorney presented the following complaints to the Commission Members.

**1. L07-AUC-RBS-2007076011.**

**Complaint:** Complainant alleges that she was the winning bidder on several items of personal property but that she was later informed that the items would not be sold because the reserve had not been met.

**Response:** Respondent states, "We would like to state that we have never represented to our customers that our monthly sale is an absolute auction. It is simply advertised as a public auction. Multiple items do carry reserves."

Motion was made by Mary Frances Rudy and seconded by Marvin Alexander for Staff Attorney to write a letter to the respondent and get a statement of exactly what occurred. Motion carried. No opposition.

**2. L07-AUC-RBS-2007080491. Rabin Worldwide.**

**Complaint:** Complaint alleges that an auction firm, licensed in Tennessee, failed to include its firm number in an advertisement.

**Response:** Respondent admits the violation and states that the firm does not conduct many auctions in Tennessee and that this advertising requirement was mistakenly overlooked.

Motion was made by Mary Frances Rudy and seconded by Marvin Alexander to take Legal's recommendation to send a Letter of Warning and close. Motion carried. No opposition.

**3. L07-AUC-RBS-2007080371. Nashville Powersport Auction.**

**Complaint:** Complaint alleges that the Respondent engaged in deceptive practices by leading the complainant to believe that the item would bring a certain amount at auction,

and the item sold at a much lower price. This Respondent was assessed civil penalties by the Commission at a previous meeting for identical conduct. The incident in the complaint presently being addressed, occurred prior to the hearing, but the current complaint was not filed until after the hearing.

**Response:** Respondent has reached a settlement with the complainant that is acceptable to both parties.

Motion was made by Marvin Alexander and seconded by Mary Frances Rudy to take Legal's recommendation to close. Motion carried. No opposition.

#### **4. L07-AUC-RBS-2007079251. ADE of Knoxville, LLC**

**Complaint:** Respondent, a licensed auction firm in Tennessee, advertised without the firm license number.

**Response:** Respondent inadvertently omitted its firm number in the advertisement. The Respondent apologizes and has discussed the issue with all of its employees who place advertisements.

Motion was made by Mary Frances Rudy and seconded by Marvin Alexander to take Legal's recommendation to send a Letter of Warning and close. Motion carried. No opposition.

#### **5. L07-AUC-RBS-2007081711. Jani's Treasures & Antiques.**

**Complaint:** Complainant makes the following allegations:

- The Respondent "tried unsuccessfully to begin an auction gallery without a gallery license".
- The Respondent failed to provide a written consignment agreement.
- The Respondent comingled and converted escrow money.
- The Respondent threatened and verbally harassed the complainant.

**Response:** Respondent states that the consignment was reviewed in detail with the complainant and denies all other allegations. Respondent also submitted statements from other witnesses that lend credibility to the Respondent's statements.

**Complaint History:** One prior for operating without a gallery license (closed, and Respondent has since obtained gallery license).

Close with letter of caution regarding the use of written consignment agreements. The complaint, considered with the Respondent's statement and statements of witnesses, does not establish any additional violations.

Motion was made by Marvin Alexander and seconded by Mary Frances Rudy to take Legal's recommendation to close with letter of caution regarding the use of written consignment agreements. The complaint, considered with the Respondent's statement and statements of witnesses, does not establish any additional violations. Motion carried. No opposition.

#### **6. L07-AUC-RBS-2007082541. Howard Phillips, reviewer. David Alford.**

Complainant alleged that the auctioneer bought his home for the auction price then changed the terms of the sale. He also stated that the price the auctioneer bought it for too low a price. Motion was made by Marvin Alexander and seconded by Mary Francis Rudy to dismiss. Motion carried. No opposition. Howard Phillips reviewed complaint and did not vote.

**7. L07-AUC-RBS-2007060801.**

**Complaint:** Complaint alleges that the Respondent operated an auction gallery without obtaining a license.

**Response:** Respondent states that he and his wife agreed to purchase the business to be run by his stepson as a way of helping his stepson. The Respondent states he had no knowledge of the auction business, and passed ownership to his stepson shortly after the complaint was filed. He was unaware that a gallery license was needed, based upon other auction firms in the area.

Motion was made by Marvin Alexander and seconded by Mary Frances Rudy to take Legal's recommendation to send a Consent Order assessing civil penalty of \$250 and authorization to schedule a hearing. Motion carried. No opposition.

There being no further business, meeting adjourned.

November 5, 2007

APPROVED:

Kenneth Dreaden  
Chairperson

Howard Phillips  
Vice-Chairperson

Marvin Alexander  
Board Member

Bobby Colson  
Board Member

Mary Francis Rudy  
Board Member